

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

THETHESIUS HOSEA MOSLEY,	)	Case No.: 1:23-cv-00421 JLT EPG
	)	
Plaintiff,	)	ORDER ADOPTING IN FULL THE FINDINGS
	)	AND RECOMMENDATIONS, GRANTING
v.	)	DEFENDANT’S MOTION FOR SUMMARY
	)	JUDGMENT AND DIRECTING THE CLERK OF
ZEPP,	)	COURT TO CLOSE THIS CASE
	)	
Defendant.	)	(Docs. 41, 67)

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Thethesius Hosea Mosley alleges that Dr. Zepp, a care provider at Kern Valley State Prison, was deliberately indifferent to Plaintiff’s serious medical needs concerning his knee injury. (*See generally* Doc. 1.) Defendant filed a motion for summary judgment, asserting there was no genuine dispute of material fact concerning Plaintiff’s deliberate indifference claim, and he was entitled to qualified immunity. (Doc. 41.) Although the Court granted Plaintiff multiple extensions of time—for a total of six months to prepare and file any opposition—the motion remained unopposed.

The magistrate judge found “the undisputed evidence shows that Defendant extensively treated Plaintiff’s knee injury,” and Defendant “consistently saw [Plaintiff] multiple times for his knee injury; ordered consultations with other providers; ordered x-rays, an MRI, and physical therapy; and referred him for an evaluation for orthopedic surgery, which surgery was ultimately performed.” (Doc. 67 at 9.) The magistrate judge found Defendant established that he “was not deliberately indifferent to Plaintiff’s knee injury,” and Plaintiff “offered no evidence in opposition to Defendant’s evidence, let alone

1 evidence from which a jury could reasonably render a verdict in his favor.” (*Id.*) Therefore, the  
2 magistrate judge recommended the Court grant Defendant’s motion for summary judgment. (*Id.* at 10.)

3 On January 16, 2025, the Court served the Findings and Recommendations on the parties and  
4 notified them that any objections were due within 30 days. (Doc. 67 at 10.) On January 27, 2025,  
5 Plaintiff filed objections, asserting he had timely filed an opposition to the motion for summary  
6 judgment.<sup>1</sup> (Doc. 68.) However, Plaintiff did not provide a copy with his objections. In response, the  
7 magistrate judge issued the following minute order.

8 After Plaintiff failed to timely oppose Defendant’s motion for summary  
9 judgment, this Court issue[d] findings and recommendations on January 16,  
10 2025, recommending that Defendant’s motion for summary judgment be  
11 granted. (ECF No. 67). Plaintiff has now filed objections, stating that he  
12 submitted an opposition to the motion for summary judgment by the due  
13 date. (ECF No. 68). However, the Court still has not received any  
14 opposition from Plaintiff and none were included in Plaintiff’s objections.  
15 In order to provide Plaintiff another opportunity to file an opposition, the  
16 Court will permit Plaintiff to file an opposition to Defendant’s motion no  
later than February 14, 2025. If Plaintiff files an opposition by that date,  
Defendant may file a response to Plaintiff’s objections no later than  
February 28, 2025. If Plaintiff fails to file an opposition by that date, this  
Court’s Findings and Recommendations will be forwarded to the District  
Judge for a ruling on Defendant’s motion.

17 (Doc. 69.) Plaintiff failed to file his opposition by the February 14, 2025, deadline; however, he filed  
18 a motion for a 60-day extension to file an opposition on February 12, 2025. (Doc. 70.) The magistrate  
19 judge denied the motion due to Plaintiff’s long history of delays, numerous extensions of time, and  
20 lack of good cause for a further extension. (Doc. 71.) On February 18, 2025, Plaintiff filed objections  
21 that are identical to those previously filed. (Doc. 72.)

22 Though Plaintiff indicated he objected to the Findings and Recommendations, he did not  
23 address the specific findings of the magistrate judge related to the treatment Defendant provided and  
24 lack of disputed material fact. (*See* Docs. 68, 72.) Plaintiff did not identify any particular evidence he  
25 purportedly possessed that would show a dispute of material fact. (*See id.*)

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27 <sup>1</sup> Notably, although Plaintiff filed a “proof of service” related to his opposition to support the assertion that such  
28 was timely filed, the document does not include a mailing address for the Court showing this opposition was  
properly placed in the prison mailing system to be mailed by the U.S. Postal System. (*See* Doc. 68 at 3.)

1 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of the action.  
2 Having carefully reviewed the matter, including the objections, the Court concludes the Findings and  
3 Recommendations are supported by the record and by proper analysis. Thus, the Court **ORDERS**:

- 4 1. The Findings and Recommendations issued on January 16, 2025 (Doc. 67) are  
5 **ADOPTED** in full.
- 6 2. Defendant Zepp's motion for summary judgment (Doc. 41) is **GRANTED**.
- 7 3. The Clerk of Court is directed to enter judgment in favor of Defendant Zepp and  
8 against Plaintiff Thethesius Hosea Mosley and to close this case

9  
10 IT IS SO ORDERED.

11 Dated: **February 24, 2025**

  
UNITED STATES DISTRICT JUDGE